

1-1 By: Ellis, Van de Putte S.B. No. 112
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 17, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 17, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 112 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the establishment of veterans court programs in this
1-11 state.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle E, Title 7, Health and Safety Code, is
1-14 amended by adding Chapter 617 to read as follows:

1-15 Sec. 617.001. VETERANS COURT PROGRAM DEFINED; PROCEDURES
1-16 FOR CERTAIN DEFENDANTS. (a) In this chapter, "veterans court
1-17 program" means a program that has the following essential
1-18 characteristics:

1-19 (1) the integration of services in the processing of
1-20 cases in the judicial system;

1-21 (2) the use of a nonadversarial approach involving
1-22 prosecutors and defense attorneys to promote public safety and to
1-23 protect the due process rights of program participants;

1-24 (3) early identification and prompt placement of
1-25 eligible participants in the program;

1-26 (4) access to a continuum of alcohol, controlled
1-27 substance, mental health, and other related treatment and
1-28 rehabilitative services;

1-29 (5) careful monitoring of treatment and services
1-30 provided to program participants;

1-31 (6) a coordinated strategy to govern program responses
1-32 to participants' compliance;

1-33 (7) ongoing judicial interaction with program
1-34 participants;

1-35 (8) monitoring and evaluation of program goals and
1-36 effectiveness;

1-37 (9) continuing interdisciplinary education to promote
1-38 effective program planning, implementation, and operations; and

1-39 (10) development of partnerships with public agencies
1-40 and community organizations, including the United States
1-41 Department of Veterans Affairs.

1-42 (b) If a defendant successfully completes a veterans court
1-43 program after notice to the attorney representing the state and a
1-44 hearing in the veterans court at which that court determines that a
1-45 dismissal is in the best interest of justice, the court in which the
1-46 criminal case is pending shall dismiss the criminal action against
1-47 the defendant and enter an order of expunction under Chapter 55,
1-48 Code of Criminal Procedure, regardless of whether the defendant was
1-49 convicted of the offense for which the defendant entered the
1-50 program or whether the court deferred further proceedings without
1-51 entering an adjudication of guilt.

1-52 Sec. 617.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

1-53 (a) The commissioners court of a county may establish a veterans
1-54 court program for persons arrested for, charged with, or convicted
1-55 of any misdemeanor or felony offense. A defendant is eligible to
1-56 participate in a veterans court program established under this
1-57 chapter only if the attorney representing the state consents to the
1-58 defendant's participation in the program and if the court in which
1-59 the criminal case is pending finds that the defendant:

1-60 (1) is a veteran or current member of the United States
1-61 armed forces, including a member of the reserves, national guard,
1-62 or state guard; and

1-63 (2) suffers from a brain injury or mental illness

2-1 that:

2-2 (A) resulted from the defendant's military
 2-3 service in a combat zone or other similar hazardous duty area; and

2-4 (B) materially affected the defendant's criminal
 2-5 conduct at issue in the case.

2-6 (b) The court in which the criminal case is pending shall
 2-7 allow an eligible defendant to choose whether to proceed through
 2-8 the veterans court program or otherwise through the criminal
 2-9 justice system.

2-10 (c) Proof of matters described by Subsection (a) may be
 2-11 submitted to the court in which the criminal case is pending in any
 2-12 form the court determines to be appropriate, including military
 2-13 service and medical records, previous determinations of a
 2-14 disability by a veteran's organization or by the United States
 2-15 Department of Veterans Affairs, testimony or affidavits of other
 2-16 veterans or service members, and prior determinations of
 2-17 eligibility for benefits by any state or county veterans office.
 2-18 The court's findings must accompany any docketed case.

2-19 Sec. 617.003. DUTIES OF VETERANS COURT. (a) A veterans
 2-20 court program established under this chapter must:

2-21 (1) ensure a person eligible for the program is
 2-22 provided legal counsel before volunteering to proceed through the
 2-23 program and while participating in the program;

2-24 (2) allow a participant to withdraw from the program
 2-25 at any time before a trial on the merits has been initiated;

2-26 (3) provide a participant with a court-ordered
 2-27 individualized treatment plan indicating the services that will be
 2-28 provided to the participant; and

2-29 (4) ensure that the jurisdiction of the veterans court
 2-30 continues for a period of not less than six months but does not
 2-31 continue beyond the period of community supervision for the offense
 2-32 charged.

2-33 (b) A veterans court program established under this chapter
 2-34 shall make, establish, and publish local procedures to ensure
 2-35 maximum participation of eligible defendants in the county or
 2-36 counties in which those defendants reside.

2-37 (c) This chapter does not prevent the initiation of
 2-38 procedures under Chapter 46B, Code of Criminal Procedure.

2-39 Sec. 617.004. ESTABLISHMENT OF REGIONAL PROGRAM. The
 2-40 commissioners courts of two or more counties may elect to establish
 2-41 a regional veterans court program under this chapter for the
 2-42 participating counties.

2-43 Sec. 617.005. OVERSIGHT. (a) The lieutenant governor and
 2-44 the speaker of the house of representatives may assign to
 2-45 appropriate legislative committees duties relating to the
 2-46 oversight of veterans court programs established under this
 2-47 chapter.

2-48 (b) A legislative committee or the governor may request the
 2-49 state auditor to perform a management, operations, or financial or
 2-50 accounting audit of a veterans court program established under this
 2-51 chapter.

2-52 (c) A veterans court program established under this chapter
 2-53 shall:

2-54 (1) notify the criminal justice division of the
 2-55 governor's office before or on implementation of the program; and

2-56 (2) provide information regarding the performance of
 2-57 the program to that division on request.

2-58 Sec. 617.006. FEES. (a) A veterans court program
 2-59 established under this chapter may collect from a participant in
 2-60 the program:

2-61 (1) a reasonable program fee not to exceed \$1,000; and

2-62 (2) a testing, counseling, and treatment fee in an
 2-63 amount necessary to cover the costs of any testing, counseling, or
 2-64 treatment performed or provided under the program.

2-65 (b) Fees collected under this section may be paid on a
 2-66 periodic basis or on a deferred payment schedule at the discretion
 2-67 of the judge, magistrate, or program director administering the
 2-68 program. The fees must be:

2-69 (1) based on the participant's ability to pay; and

3-1 (2) used only for purposes specific to the program.
3-2 Sec. 617.007. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE
3-3 REQUIREMENT. (a) Notwithstanding Section 16, Article 42.12, Code
3-4 of Criminal Procedure, to encourage participation in a veterans
3-5 court program established under this chapter, the judge or
3-6 magistrate administering the program may suspend any requirement
3-7 that, as a condition of community supervision, a participant in the
3-8 program work a specified number of hours at a community service
3-9 project or projects.

3-10 (b) On a participant's successful completion of a veterans
3-11 court program, a judge or magistrate may excuse the participant
3-12 from any condition of community supervision previously suspended
3-13 under Subsection (a).

3-14 SECTION 2. Subsection (b), Article 55.01, Code of Criminal
3-15 Procedure, is amended to read as follows:

3-16 (b) Except as provided by Subsection (c) [~~of this section~~],
3-17 a district court may expunge all records and files relating to the
3-18 arrest of a person who has been arrested for commission of a felony
3-19 or misdemeanor under the procedure established under Article 55.02
3-20 [~~of this code~~] if the person [~~is~~]:

3-21 (1) is tried for the offense for which the person was
3-22 arrested, [+]

3-23 [~~(2)~~] convicted of the offense, [+] and

3-24 [~~(3)~~] acquitted by the court of criminal appeals; or

3-25 (2) in connection with the offense for which the
3-26 person was arrested or charged, successfully completes a veterans
3-27 court program established under Chapter 617, Health and Safety
3-28 Code, if the court subsequently dismisses the criminal action
3-29 against the person under Section 617.001(b) of that chapter.

3-30 SECTION 3. This Act takes effect September 1, 2009.

3-31

* * * * *